

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

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EDUARDO PINKETT,

Plaintiff,

-against-

CITY OF NEW YORK, POLICE OFFICER GEORGE
ANNAREUVA, SHIELD NUMBER 13728, POLICE
OFFICER NELSON QUINONES, SHIELD NUMBER
6999, AND SEVERAL UNIDENTIFIED POLICE
OFFICERS ASSIGNED TO THE 23RD PRECINCT,

Defendants.
-----X

Index No.:

Date Purchased:

Plaintiff designates New York
County as the place of trial.

Basis of venue is place
of occurrence.

SUMMONS

Plaintiff resides at
130 East 115th Street
New York, New York 10029

To the above named Defendants:

YOU ARE HEREBY SUMMONED to answer the complaint in this action and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance, on the Plaintiff's Attorney(s) within 20 days after the service of this summons, exclusive of the day of service (or within 30 days after the service is complete if this summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

Dated: White Plains, New York
May 23, 2014



TRACIE A. SUNDACK & ASSOCIATES, L.L.C.
Attorneys for Plaintiff
EDUARDO PINKETT
19 Court Street, 3rd Floor
White Plains, New York 10601
(914) 946-8100

Defendants' addresses:

CITY OF NEW YORK
100 Church Street
New York, New York 10007

POLICE OFFICER GEORGE ANNAREUVA,
SHIELD NUMBER 13728, c/o
POLICE OFFICER NELSON QUINONES,
SHIELD NUMBER 6999, c/o
23rd Precinct
162 East 102 Street
New York, New York 10029

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

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EDUARDO PINKETT,

Plaintiff,

Index No.:

-against-

CITY OF NEW YORK, POLICE OFFICER GEORGE
ANNAREUVA, SHIELD NUMBER 13728, POLICE
OFFICER NELSON QUINONES, SHIELD NUMBER
6999, AND SEVERAL UNIDENTIFIED POLICE
OFFICERS ASSIGNED TO THE 23RD PRECINCT,

VERIFIED COMPLAINT

Defendants.
-----X

Plaintiff EDUARDO PINKETT by and through his attorneys, TRACIE A. SUNDACK & ASSOCIATES, L.L.C., complaining of Defendants CITY OF NEW YORK, POLICE OFFICER GEORGE ANNAREUVA, SHIELD NUMBER 13728, POLICE OFFICER NELSON QUINONES, SHIELD NUMBER 6999, and SEVERAL UNIDENTIFIED POLICE OFFICERS ASSIGNED TO THE 23TH PRECINCT, respectfully alleges as follows:

1. That at all times hereinafter mentioned, Defendant CITY OF NEW YORK was and still is a municipal corporation duly organized and existing under and by virtue of the General Municipal Law of the State of New York.

2. That at all times hereinafter mentioned, Defendant CITY OF NEW YORK, its agents servants and employees operated, maintained and controlled the New York City Police Department, including all the police officers thereof.

3. That at all times hereinafter mentioned, Defendant POLICE OFFICER GEORGE ANNAREUVA, SHIELD NUMBER 13728, was employed by Defendant CITY OF NEW YORK as a police officer.

4. That at all times hereinafter mentioned, Defendant POLICE OFFICER GEORGE ANNAREUVA, SHIELD NUMBER 13728, acted within the scope of his employment for Defendant CITY OF NEW YORK.

5. That at all times hereinafter mentioned, Defendant POLICE OFFICER GEORGE

ANNAREUVA, SHIELD NUMBER 13728, was acting under the color and pretense of the statutes, ordinances, regulations, customs, and usages of the County, City and State of New York, and under the authority of his office as a police officer for said county, city and state.

6. That at all times hereinafter mentioned, Defendant POLICE OFFICER NELSON QUINONES, SHIELD NUMBER 6999, was employed by Defendant CITY OF NEW YORK as a police officer.

7. That at all times hereinafter mentioned, Defendant POLICE OFFICER NELSON QUINONES, SHIELD NUMBER 6999, acted within the scope of his employment for Defendant CITY OF NEW YORK.

8. That at all times hereinafter mentioned, Defendant POLICE OFFICER NELSON QUINONES, SHIELD NUMBER 6999, was acting under the color and pretense of the statutes, ordinances, regulations, customs, and usages of the County, City and State of New York, and under the authority of his office as a police officer for said county, city and state.

9. Upon information and belief, that at all times hereinafter mentioned, Defendants SEVERAL UNIDENTIFIED POLICE OFFICERS ASSIGNED TO THE 23RD PRECINCT, were employed by Defendant CITY OF NEW YORK as a police officer.

10. That at all times hereinafter mentioned, Defendants SEVERAL UNIDENTIFIED POLICE OFFICERS ASSIGNED TO THE 23RD PRECINCT, acted within the scope of his employment for Defendant CITY OF NEW YORK.

11. That at all times hereinafter mentioned, Defendants SEVERAL UNIDENTIFIED POLICE OFFICERS ASSIGNED TO THE 23RD PRECINCT, were acting under the color and pretense of the statutes, ordinances, regulations, customs, and usages of the County, City and State of New York, and under the authority of their office as police officers for said county, city and state.

12. That on or about April 4, 2013, at approximately 3:30 A.M., Plaintiff EDUARDO PINKETT was on Park Avenue between 113th and 114th Street in the County, City and State of New York when he was accosted by members of the New York City Police Department including

Defendants POLICE OFFICER GEORGE ANNAREUVA, BADGE NUMBER 13728, POLICE OFFICER NELSON QUINONES, SHIELD NUMBER 6999, and SEVERAL UNIDENTIFIED POLICE OFFICERS ASSIGNED TO THE 23TH PRECINCT.

13. That at the aforementioned time and place, Defendants POLICE OFFICER GEORGE ANNAREUVA, BADGE NUMBER 13728, POLICE OFFICER NELSON QUINONES, SHIELD NUMBER 6999, and SEVERAL UNIDENTIFIED POLICE OFFICERS ASSIGNED TO THE 23TH PRECINCT, without any just cause or provocation, willfully, wantonly, maliciously, and recklessly assaulted, attacked and verbally abused Plaintiff EDUARDO PINKETT.

14. That, as a result of this unprovoked assault, Plaintiff EDUARDO PINKETT sustained physical injuries including, but not limited to, a fracture of the left foot.

15. That on October 3, 2013, Plaintiff EDUARDO PINKETT filed a Notice of Petition and Verified Petition in the Supreme Court of the State of New York (County of New York) seeking permission to file a late Notice of Claim in this matter. Plaintiff's Petition was assigned Index Number 158266/13.

16. That on January 13, 2014, by Order of the Honorable Kathryn Freed, JSC, Plaintiff's Petition for leave to serve a late Notice of Claim in this matter was decided in Plaintiff's favor and leave to serve and file a late Notice of Claim *nunc pro tunc* upon Defendant CITY OF NEW YORK was granted.

17. That on January 22, 2014, in accordance with Justice Freed's Order, Plaintiff EDUARDO PINKETT duly presented, served, and filed a Notice of Claim, in writing, upon Comptroller of Defendant CITY OF NEW YORK, setting forth the name and post office address of claimant; the nature of the claim, the time when, the place where, and the manner in which the claim arose. A copy of Justice Freed's Order was attached to the Notice of Claim.

18. This action is commenced within one year and ninety days after the cause of action arose.

19. This action falls within one or more of the exceptions set forth in CPLR §1602

**AS AND FOR A FIRST CAUSE OF ACTION UNDER
NEW YORK STATE LAW FOR ASSAULT**

20. Plaintiff EDUARDO PINKETT repeats, reiterates and realleges each and every paragraph of this complaint and further alleges:

21. The aforementioned acts of Defendants POLICE OFFICER GEORGE ANNAREUVA, SHIELD NUMBER 13728, POLICE OFFICER NELSON QUINONES, SHIELD NUMBER 6999, and SEVERAL UNIDENTIFIED POLICE OFFICERS ASSIGNED TO THE 23RD PRECINCT, placed Plaintiff EDUARDO PINKETT in apprehension of imminent harmful and offensive bodily contact.

22. As a result of the conduct of Defendants POLICE OFFICER GEORGE ANNAREUVA, SHIELD NUMBER 13728, POLICE OFFICER NELSON QUINONES, SHIELD NUMBER 6999, and SEVERAL UNIDENTIFIED POLICE OFFICERS ASSIGNED TO THE 23RD PRECINCT, Plaintiff EDUARDO PINKETT has suffered physical pain and mental anguish, together with shock, fright, apprehension, embarrassment and humiliation.

**AS AND FOR A SECOND CAUSE OF ACTION
UNDER NEW YORK STATE LAW FOR BATTERY**

23. Plaintiff EDUARDO PINKETT repeats, reiterates and realleges each and every paragraph of this complaint and further alleges:

24. Defendants POLICE OFFICER GEORGE ANNAREUVA, SHIELD NUMBER 13728, POLICE OFFICER NELSON QUINONES, SHIELD NUMBER 6999, and SEVERAL UNIDENTIFIED POLICE OFFICERS ASSIGNED TO THE 23RD PRECINCT, touched Plaintiff EDUARDO PINKETT in a harmful and offensive manner.

25. Defendants POLICE OFFICER GEORGE ANNAREUVA, SHIELD NUMBER 13728, POLICE OFFICER NELSON QUINONES, SHIELD NUMBER 6999, and SEVERAL UNIDENTIFIED POLICE OFFICERS ASSIGNED TO THE 23RD PRECINCT, did so without privilege or consent from Plaintiff EDUARDO PINKETT.

26. As a result of the conduct of Defendants POLICE OFFICER GEORGE ANNAREUVA, SHIELD NUMBER 13728, POLICE OFFICER NELSON QUINONES,

SHIELD NUMBER 6999, and SEVERAL UNIDENTIFIED POLICE OFFICERS ASSIGNED TO THE 23RD PRECINCT, Plaintiff EDUARDO PINKETT has suffered physical pain and mental anguish, together with shock, fright, apprehension, embarrassment and humiliation.

**AS AND FOR A THIRD CAUSE OF ACTION FOR
EXCESSIVE FORCE UNDER 42 U.S.C. § 1983**

27. Plaintiff EDUARDO PINKETT repeats, reiterates and realleges each and every paragraph of this complaint and further alleges:

28. The level of force employed by Defendants POLICE OFFICER GEORGE ANNAREUVA, SHIELD NUMBER 13728, POLICE OFFICER NELSON QUINONES, SHIELD NUMBER 6999, and SEVERAL UNIDENTIFIED POLICE OFFICERS ASSIGNED TO THE 23RD PRECINCT was objectively unreasonable and in violation of Plaintiff EDUARDO PINKETT's constitutional rights.

29. As a result of the aforementioned conduct of Defendants POLICE OFFICER GEORGE ANNAREUVA, SHIELD NUMBER 13728, POLICE OFFICER NELSON QUINONES, SHIELD NUMBER 6999, and SEVERAL UNIDENTIFIED POLICE OFFICERS ASSIGNED TO THE 23RD PRECINCT, Plaintiff EDUARDO PINKETT was subjected to excessive force and sustained physical injuries.

**AS AND FOR A FOURTH CAUSE OF ACTION FOR
MUNICIPAL LIABILITY**

30. Plaintiff EDUARDO PINKETT repeats, reiterates, and realleges each and every paragraph of this complaint and further alleges:

31. Defendants POLICE OFFICER GEORGE ANNAREUVA, SHIELD NUMBER 13728, POLICE OFFICER NELSON QUINONES, SHIELD NUMBER 6999, and SEVERAL UNIDENTIFIED POLICE OFFICERS ASSIGNED TO THE 23RD PRECINCT, collectively and individually, while acting under color of state law, engaged in conduct that constituted a custom, usage, practice, procedure or rule of the respective municipality/authority, which is forbidden by the Constitution of the United States.

32. The aforementioned customs, policies, usages, practices, procedures and rules of the

City of New York and the New York City Police Department included, but were not limited to:

(a) using force on individuals who are not resisting lawful authority; and (b) using force in an unreasonable, unnecessary, and unjustified manner.

33. The foregoing customs, policies, usages, practices, procedures and rules of the City of New York and the New York City Police Department constituted deliberate indifference to the safety, well-being and constitutional rights of Plaintiff EDUARDO PINKETT.

34. The foregoing customs, policies, usages, practices, procedures and rules of the City of New York and the New York City Police Department were the direct and proximate cause of the constitutional violations suffered by Plaintiff EDUARDO PINKETT as alleged herein.

35. The foregoing customs, policies, usages, practices, procedures and rules of the City of New York and the New York City Police Department were the moving force behind the constitutional violations suffered by Plaintiff EDUARDO PINKETT as alleged herein.

36. Defendants POLICE OFFICER GEORGE ANNAREUVA, SHIELD NUMBER 13728, POLICE OFFICER NELSON QUINONES, SHIELD NUMBER 6999, and SEVERAL UNIDENTIFIED POLICE OFFICERS ASSIGNED TO THE 23RD PRECINCT, collectively and individually, while acting under the color of state law, were directly and actively involved in violating Plaintiff EDUARDO PINKETT's constitutional rights.

37. All of the foregoing acts by defendants deprived Plaintiff EDUARDO PINKETT of federally protected rights including, but not limited to, the right:

- A. Not to have excessive force imposed upon him;
- B. To be free from unlawful search;
- C. To receive equal protection under the law.

**AS AND FOR A FIFTH CAUSE OF ACTION FOR
FAILURE TO INTERVENE**

38. Plaintiff EDUARDO PINKETT repeats, reiterates and realleges each and every allegation contained in this complaint.

39. Each and every individual Defendant had an affirmative duty to intervene on Plaintiff EDUARDO PINKETT's behalf to prevent the violation of his constitutional rights and failed to

so intervene despite having had a realistic opportunity to do so.

40. As a result of the aforementioned conduct of the individual Defendants, Plaintiff EDUARDO PINKETT's constitutional rights were violated and he was subjected to excessive force and sustained physical injuries.

**AS AND FOR A SIXTH CAUSE OF ACTION FOR
NEGLIGENT HIRING AND RETENTION**

41. Plaintiff EDUARDO PINKETT repeats, reiterates, and realleges each and every paragraph of this complaint and further alleges:

42. That Defendant CITY OF NEW YORK, was careless and reckless in hiring and retaining as and for its employees, Defendants POLICE OFFICER GEORGE ANNAREUVA, SHIELD NUMBER 13728, POLICE OFFICER NELSON QUINONES, SHIELD NUMBER 6999, and SEVERAL UNIDENTIFIED POLICE OFFICERS ASSIGNED TO THE 23RD PRECINCT, in that said Defendant employees lacked the experience, deportment and ability to be employed by Defendant CITY OF NEW YORK; in that Defendant CITY OF NEW YORK failed to exercise due care and caution in its hiring practices, and in particular, in hiring the defendant employees who lacked the mental capacity and the ability to function as employees of Defendant CITY OF NEW YORK; in that the Defendant employees lacked the maturity, sensibility and intelligence to be employed by Defendant CITY OF NEW YORK; in that Defendant CITY OF NEW YORK knew of the lack of ability, experience, deportment and maturity of said Defendant employees when they hired them to be employees; and, in that Defendant CITY OF NEW YORK, its agents, servants and/or employees were otherwise careless, negligent and reckless.

43. Defendant CITY OF NEW YORK knew, or should have known in the exercise of reasonable care, the propensities of Defendants POLICE OFFICER GEORGE ANNAREUVA, SHIELD NUMBER 13728, POLICE OFFICER NELSON QUINONES, SHIELD NUMBER 6999, and SEVERAL UNIDENTIFIED POLICE OFFICERS ASSIGNED TO THE 23RD PRECINCT to engage in the wrongful conduct heretofore alleged in this Complaint.

**AS AND FOR A SEVENTH CAUSE OF ACTION FOR
NEGLIGENT TRAINING AND SUPERVISION**

44. Plaintiff EDUARDO PINKETT repeats, reiterates, and realleges each and every paragraph of this complaint and further alleges:

45. The failure of Defendant CITY OF NEW YORK to adequately train, supervise, discipline or in any way control the behavior of Defendants POLICE OFFICER GEORGE ANNAREUVA, SHIELD NUMBER 13728, POLICE OFFICER NELSON QUINONES, SHIELD NUMBER 6999, and SEVERAL UNIDENTIFIED POLICE OFFICERS ASSIGNED TO THE 23RD PRECINCT, in the exercise of their employment functions, and their failure to enforce the laws of the State of New York and the regulations of Defendant CITY OF NEW YORK, is evidence of the reckless lack of cautious regard for the rights of the public including Plaintiff EDUARDO PINKETT. Further, the Defendants exhibited a lack of that degree of due care which prudent and reasonable individuals would show.

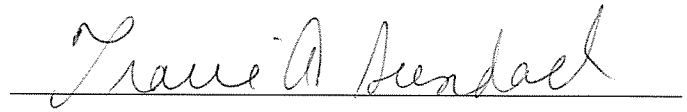
46. The failure of Defendant CITY OF NEW YORK, to train, supervise, discipline or in any other way control Defendants POLICE OFFICER GEORGE ANNAREUVA, SHIELD NUMBER 13728, POLICE OFFICER NELSON QUINONES, SHIELD NUMBER 6999, and SEVERAL UNIDENTIFIED POLICE OFFICERS ASSIGNED TO THE 23RD PRECINCT, in the exercise of their employment functions and their failure to enforce the laws of the State of New York and the regulations of Defendant CITY OF NEW YORK, was carried out willfully, wantonly, maliciously and with such reckless disregard for the consequences as to display a conscious disregard for the dangers of harm and injury to the citizens of New York, including Plaintiff EDUARDO PINKETT.

47. As a result of the foregoing, Plaintiff EDUARDO PINKETT is entitled to compensatory damages in the sum of One Million Dollars (\$1,000,000.00) and is further entitled to punitive damages against the individual Defendants in the sum of Three Million Dollars (\$3,000,000.00)

WHEREFORE Plaintiff EDUARDO PINKETT demands judgment against Defendants CITY OF NEW YORK, POLICE OFFICER GEORGE ANNAREUVA, SHIELD NUMBER

13728, POLICE OFFICER NELSON QUINONES, SHIELD NUMBER 6999, and SEVERAL UNIDENTIFIED POLICE OFFICERS ASSIGNED TO THE 23RD PRECINCT, jointly and severally, in the amount of One Million Dollars (\$1,000,000.00) in compensatory damages and Three Million Dollars (\$3,000,000.00) in punitive damages, plus reasonable attorney's fees, costs and disbursements of this action.

Dated: White Plains, New York
May 23, 2014

A handwritten signature in cursive script, reading "Tracie A. Sundack", is written over a horizontal line.

TRACIE A. SUNDACK & ASSOCIATES, L.L.C.
Attorneys for Plaintiff
EDUARDO PINKETT
19 Court Street, 3rd Floor
White Plains, New York 10601
(914) 946-8100

ATTORNEY'S VERIFICATION

STATE OF NEW YORK }
COUNTY OF WESTCHESTER } SS.:

I, the undersigned, an attorney admitted to practice in the Courts of the State of New York, state:

That I am the attorney of record for the Plaintiff in the within action.

That I have read the foregoing SUMMONS and COMPLAINT and know the contents thereof; the same is true to my own knowledge, except for the matters therein alleged to be on information and belief, and as to those matters I believe them to be true. The reason this Verification is made by me and not by the Plaintiff is that Plaintiff resides outside the County where your affirmant maintains her office. The grounds of my belief as to all matters not stated upon my own knowledge are as follows: files maintained by my office and conversations with Plaintiff.

I affirm that the foregoing statements are true, under the penalties of perjury.

Dated: White Plains, New York
May 23, 2014



TRACIE A. SUNDACK